

BRET O. WHIPPLE, ESQ
Nevada Bar Number 6168
JUSTICE LAW CENTER
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(702) 731-0000

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CASE NO.: 2:16-cr-00046-GMN-PAL

THE UNITED STATES OF AMERICA,

Plaintiff,

Vs.

CLIVEN D. BUNDY,

Defendant.

MOTION TO WITHDRAW AS COUNSEL
AND/OR TO SET HEARING FOR
FARETTA CANVAS
(REQUEST FOR AN EXPEDITED
HEARING)

COMES NOW, BRET O. WHIPPLE, ESQ., counsel for CLIVEN D. BUNDY, ESQ., and hereby moves to withdraw as counsel and/or to set hearing for *Faretta Canvas*. This Motion is brought pursuant to the enclosed affidavit, accompanying points and authorities, the pleadings and papers on file in this case.

An expedited hearing on this matter is requested at the Court's earliest convenience.

DATED THIS 21st day of September, 2017.

JUSTICE LAW CENTER
/s/ Bret O. Whipple, Esq.
Bret O. Whipple, Esq. Bar No 6168

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

4
5 Undersigned counsel entered his notice of appearance for full representation of the
6 Defendant Cliven D. Bundy on October 24, 2016. Undersigned counsel has worked diligently
7 to prepare a defense in this case and in his representation of Bundy. Communication with Bundy
8 has included many in-person and telephonic conferences as well as several written
9 correspondences. Numerous motions and joinders of co-defendants motions have been made.
10 Undersigned counsel has appeared at several hearings before this court.
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12 Undersigned counsel has been informed that the Defendant has decided to terminate his
13 contract for representation at this time. As the client has required that undersigned counsel's
14 service to him cease at this time, the attorney-client relationship has been disrupted. The Client
15 will either need to discuss, with the Court, his right to represent himself or the appointment of
16 substitute counsel, or whatever other outcome is appropriate, prior to the rapidly approaching
17 trial date in this matter. For that reason, undersigned counsel brings the present motion to
18 withdraw, which should be heard on an expedited basis.
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21 **LEGAL AUTHORITY**

22 The Model Code of Professional Responsibility advises that an attorney be permitted
23 to withdraw as counsel if the client "freely assents to termination of his employment." DR2-
24 110(C)(5). Furthermore, withdrawal should be granted if "good cause for withdrawal exists."

25 Without disclosing confidential communications, undersigned counsel must inform this
26 Court that client no longer consents to undersigned counsel's representation of him in this
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1 matter or at trial. While undersigned counsel diligently prepared for trial, as he has been
2 required to do as counsel and pursuant to his retention in this matter, the decision to relinquish
3 undersigned counsel of his services in this matter is prohibitive of undersigned counsel's ability
4 to function in an attorney-client relationship with the client who no longer consents to such
5 relationship as it relates to the upcoming trial.
6

7 It is unknown to undersigned counsel at this time whether or not Defendant Bundy seeks
8 to represent himself at trial, or if he has some other intent in regards to securing alternative
9 counsel. Given this circumstance, the Court should hold a hearing with Defendant Bundy
10 present to inform the Court of his intent. Bundy and his counsel need to know as soon as
11 possible whether undersigned counsel will continue to represent Mr. Bundy, and what role, if
12 any, undersigned counsel will continue to play in this case. Counsel asks that a hearing on Mr.
13 Bundy's request be set as soon as is practicable.
14

15 The present request is made with the consent of Mr. Bundy, who does not object to said
16 withdrawal. Conversely, Mr. Bundy has demanded that this present request be made. Therefore
17 counsel for Bundy respectfully requests that this Court set a hearing as soon as is practically
18 possible to grant this Motion to Withdraw as Counsel of Record and to inquire as to whether or
19 not Mr. Bundy is asking the Court to grant him his right of self-representation under a *Faretta*
20 canvas, or to proceed in whatever other manner this Court finds to be appropriate under the
21 present circumstances.
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24 CONCLUSION

25 Wherefore, it is respectfully submitted that Bret O. Whipple, Esq., be relieved as counsel
26 of record and from the responsibility for all future proceedings following appointment of other
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1 counsel and/or the grant of self-representation to the Defendant in conjunction with an
2 appropriate *Faretta* canvas.

3 Finally, because there are pre-trial deadlines set in this case for September 28, 2017,
4 undersigned counsel respectfully asks that this Court hear this matter prior to that date.

5 DATED THIS 21st day of September, 2017.
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7 **JUSTICE LAW CENTER**

8 /s/ Bret O. Whipple, Esq.

9 Bret O. Whipple, Esq.

10 Nevada Bar No. 6168

11 JUSTICE LAW CENTER

12 Las Vegas, Nevada 89104

13 (702) 731-0000

14 *Counsel for Defendant*
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AFFIDAVIT OF BRET O. WHIPPLE, ESQ.

STATE OF NEVADA)
) ss
 COUNTY OF CLARK)

I, BRET O. WHIPPLE, ESQ., being first duly sworn according to law, depose and state as follows:

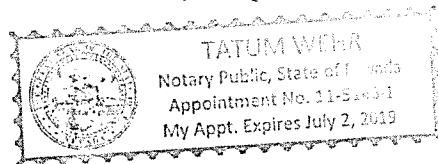
1. That I am retained counsel on behalf of Defendant Cliven D. Bundy.
2. That the representations made in the present motion are true.
3. That the attorney client relationship in this matter is disrupted and no longer possible, as the Client no longer accepts my services on behalf of him in this matter and I have been directed to effectuate his decision by motion to this Court.
4. That Client has not informed me whether he intends to obtain different counsel, or represent himself, and for that reason I respectfully believe that this Court should set an expedited hearing with the Defendant present for the purpose of determining his intent, and to take whatever steps may be appropriate in light of the present Motion.
5. That, notwithstanding the client's attempt to cease my representation of him in this matter at present time, I have prepared to go to trial in this matter, and otherwise acted in due diligence in my representation of the Defendant.
6. That I respectfully seek this Court's guidance in this matter, given the closeness of the trial date, and on this basis, request a hearing at the Court's earliest convenience.

DATED this 21st day of September, 2017.

SUBSCRIBED AND SWORN to before me,
 this 21st day of September, 2017.

NOTARY PUBLIC, in and for the COUNY OF CLARK.

~~BRET O. WHIPPLE, ESQ.~~



CERTIFICATION OF SERVICE

I hereby certify that on the 21st day of September, 2017 a true and correct copy of the foregoing Motion to Withdraw and/or for Faretta Hearing was delivered via E-filing to:

DANIEL BOGDEN
United States Attorney

STEVEN MYHRE
First Assistant United States Attorney

NICHOLAS DICKINSON
Assistant United States Attorney

NADIA AHMED
Assistant United States Attorney

ERIN M. CREEGAN
Assistant
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/S/ Tatum Wehr
An Employee of Justice Law Center